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Better late than never!

Former Shanti Bhushan set the cat among the pigeons by alleging eight former Chief Justices of corruption and daring the to send him to jail for 'contempt of court'. And while there may be an

element of truth in the cynical view that Bhushan was motivated only by parental concern for his lawyer son currently facing contempt charges (after all, why did he remain silent all these years?), what is surprising is the muted response to the allegation from the media and the establishment.

It is as though corruption is now so much a part of our DNA—note the former CVC's comment that one in every three Indians is corrupt—that allegations of corruption no longer raise our collective consciousness. But can we afford to be so indifferent? Can petty corruption of the kind practiced by the clerk at the Regional Transport Office or the Passport Office be equated with corruption in the judiciary?

Let me clarify. Corruption at any level is reprehensible and must be condemned. But it is far worse when corruption is present in the judiciary because the judiciary is the ultimate custodian of our rights. To give an analogy, the assassination of former Prime Minister Indira Gandhi was a dastardly act by any standards. But it was made more dastardly by the fact that it was done by her bodyguards, the men entrusted with her safety. Likewise, corruption at any level is bad. But it is a hundred times worse when it exists at the highest levels of the judiciary because it rules out any scope for redress.

Shanti Bhushan's remarks should, therefore, have caused a public outcry. At the very least there should have been demands to investigate his allegations and take action against those found guilty, if any. From a longer-term perspective, it should have provoked some soul-searching and public debate about all that is wrong with our higher judiciary.

To start with there is the issue of lack of transparency in the appointment of judges to the High Court and Supreme Court. If the earlier system, where power rested with the executive, was bad—we've seen the damage wrought during Mrs Gandhi's tenure as PM—the present system, where the judges are recommended (read selected) by a cosy collegiate of Supreme Court judges, is no better.

Once appointed, removal of a judge is almost impossible. Impeachment, the only mode at present, is such a long drawn out process as to be virtually meaningless. The Supreme Court cannot take any action against a judge accused of misdoings. It can at best disallow him from hearing cases but he continues to enjoy all the perks and privileges of his position.

Witness the farce over the former Chief Justice of the Karnataka High Court, PD Dinakaran who, even while facing impeachment proceedings in the Rajya Sabha on the grounds of grave charges of corruption, has been allowed to take over as Chief Justice of the Sikkim High Court. Are we seriously suggesting the people of Sikkim are entitled to lower standards of justice?

Today the government does not have the constitutional competence to look into the allegations against the Supreme Court and High Court judges. That should change once the Judicial Standards and Accountability Bill, that replaces the earlier Judges Inquiry Bill 2006, is passed by Parliament. The Bill, among other things, establishes a mechanism for dealing with complaints against a Supreme Court or High Court judge and also provides for declaration of assets and liability by judges.

Hopefully it will not meet the same fate as the Judges Enquiry Bill 2006. The 2006 Bill was seen as the first step in allowing people to speak out against corruption in the judiciary by simplifying the procedure for filing complaints of corruption against judges. But though it was introduced in Parliament in December 2006 and referred to the Parliamentary Standing Committee (which gave its recommendations in August 2007) nothing came of it during the term of the UPA I government.

This time round we cannot afford to be so complacent. Allegations of corruption in the higher judiciary are both too frequent and too persistent for us to dismiss as motivated. So regardless of Shanti Bhushan's motive, it's time we sat up and looked beyond to whether there is any truth in what he says and put in place necessary institutional safeguards. Better late than never!

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